



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/161002

PRELIMINARY RECITALS

Pursuant to a petition filed October 02, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a telephone hearing was held on October 23, 2014.

The issue for determination is whether the agency correctly denied Petitioner's application for BadgerCare (BC) Plus when her monthly gross income was over the program limit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On September 23, 2014 Petitioner applied for BadgerCare (BC) Plus for herself and her grandson who is living with her.

3. On September 24, 2014 the agency denied BC Plus coverage for Petitioner, but found that her grandson qualified for coverage.
4. The agency calculated Petitioner's monthly gross income in the amount of \$1,951.90 consisting of Petitioner's spouse's social security retirement income. Petitioner's spouse also works 20 to 25 hours per week for [REDACTED]. The agency did not consider this employment income when they denied Petitioner's application.
5. On October 2, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in September 2014). The petitioner meets the nonfinancial eligibility tests for the program.

Petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one, and \$1,310.83 for a household of two, and \$1,649.17 for a household of three persons in 2014. *Id.*, § 50.1. The income limits for a child are 300% of FPL. Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. Petitioner meets those requirements with respect to her grandson.

In this case Petitioner does not dispute that her spouse receives \$1,951.90 from social security retirement income. Petitioner also does not dispute that her spouse works 20 to 25 hours per week for [REDACTED]. That income was not calculated when the agency determined that her household monthly gross income was over the program limits. The program limit for an adult with a household size of three is \$1,649.17. Petitioner is an adult with a household size of three, and a portion of her monthly gross income is \$1,951.90. Therefore she does not qualify for BC Plus coverage.

CONCLUSIONS OF LAW

Petitioner's monthly gross income of \$1,951.90 is over the program limit of \$1,649.17, and therefore she does not qualify for the BC Plus program.

THEREFORE, it is

ORDERED

That the petitioner is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of October, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 24, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability